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Amendments to the claims

1. (Currently amended) A non cannulated dilator for use in surgery comprising an elongated solid body having a blunted pointed portion distal end and the diameter of said elongated solid body being rigid whereby the dimensions of the elongated solid body is such that the tissue and muscle being penetrated by the non cannulated dilator will afford a resistive force while being inserted toward the target of the patient so as to define a surgical plane.

2. (Original) A non cannulated dilator as claimed in claim 1 wherein the diameter of said solid body is greater than one and a half millimeters.

3. (Original) A non cannulated dilator as claimed in claim 1 wherein the diameter of said solid body is substantially equal to five millimeters.

4. (Currently amended) A non cannulated dilator as claimed in claim 2 ~~engaging~~ including a tool portion at the proximal end of said elongated solid body.

5. (Original) A non cannulated dilator as claimed in claim 1 wherein said elongated solid body includes indicia indicative of a graduated scale whereby the depth of the insertion is measured.

6. (Original) A non cannulated dilator as claimed in claim 4 wherein said elongated solid body is cylindrical in shape.

7. (Currently amended) In combination, a plurality of dilators and a non cannulated dilator, for use in performing minimal invasive surgery, each of said plurality of dilators having a straight through bore and dimensioned to complement the preceding dilator of said plurality of dilators for fitting over the next preceding dilator of said plurality of dilators for insertion into an access hole formed in a patient for parting ~~stretching~~ the tissue adjacent to the access hole so as to enlarge the surgical plane ~~same~~, said non cannulated dilator having an elongated solid body configured to fit into the straight through bore of the dilator of said plurality of dilators with the smallest diameter of the straight through bore, said elongated solid body being rigid and the diameter of said elongated solid body being greater than one and a half millimeters.

8. (Original) A non cannulated dilator as claimed in claim 7 wherein the diameter of said solid body is substantially equal to five millimeters.

9. (Currently amended) A non cannulated dilator as claimed in claim 7 engaging including a tool portion at the proximal end of said elongated solid body.

10. (Original) A non cannulated dilator as claimed in claim 7 wherein said elongated solid body includes indicia indicative of a graduated scale whereby the depth of the insertion is measured.

11. (Original) A non cannulated dilator as claimed in claim 9 wherein said elongated solid body is cylindrical in shape.

12. (New) A method of creating a working channel from a skin incision to proximate a vertebra, comprising:

- making a skin incision,
- inserting a distal end of a non cannulated dilator into the skin incision,
- advancing the distal end of the dilator into proximity to a vertebra, the dilator extending from proximate the vertebra to external to the skin incision,
- inserting a cannula over the non cannulated dilator, and
- removing the non cannulated dilator, a bore of the cannula defining a working channel from the skin incision to proximate the vertebra.

13. (New) The method of claim 12, wherein the distal end of the non cannulated dilator is advanced into contact with the vertebra.

14. (New) The method of claim 13, wherein a distal end of the cannula is advanced into contact with the vertebra.

15. (New) The method of claim 12, wherein the distal end of the non cannulated dilator is advanced into contact with the inferior edge of the superior lamina of the vertebra.

16. (New) The method of claim 12, further comprising selecting the size of the cannula based on the advancement of the non cannulated dilator into proximity to a vertebra.

17. (New) The method of claim 16, wherein the non cannulated dilator is graduated to facilitate sizing of the cannula.

18. (New) The method of claim 12, further comprising inserting a second cannula over the cannula, and inserting a third cannula over the second cannula.

19. (New) The method of claim 12, wherein the non cannulated dilator has a diameter greater than one and a half millimeters.

20. (New) The method of claim 12, wherein the non cannulated dilator is cylindrical in shape.

21. (New) The method of claim 12, wherein the non cannulated dilator is ovoid in shape.

22. (New) The method of claim 12, wherein the bore of the cannula has a circular cross-section.

23. (New) The method of claim 12, wherein the bore of the cannula has an ovoid cross-section.

24. (New) The method of claim 12, further comprising connecting a tool to a proximal end of the non cannulated dilator; and manipulating the tool to facilitate advancement of the non cannulated dilator into proximity to the vertebra.

25. (New) A kit comprising:

- a non cannulated dilator having an elongated solid and generally rigid shaft having a proximal end spaced apart from a distal end, the shaft being sized to extend from a skin incision to proximate a vertebra, the shaft having a shaft diameter greater than one and a half millimeter, and
- a plurality of cannulas, each cannula including a bore having a bore diameter and being sized to extend from a skin incision to proximate a vertebra, at least some of the cannulas each having a bore diameter greater than a bore diameter of another cannula.

26. (New) The kit of claim 25, wherein the plurality of cannulas comprises a first cannula having a first bore diameter greater than the shaft diameter,

- a second cannula having a second bore diameter greater than the first bore diameter,
- and
- a third cannula having a third bore diameter greater than the second bore diameter.

27. (New) The kit of claim 25, wherein the distal end of the shaft tapers to a blunt tip.

28. (New) The kit of claim 25, wherein the shaft includes indicia indicative of a graduated scale.

29. (New) The kit of claim 25, wherein the shaft on the non cannulated dilator is cylindrical in shape.

30. (New) The kit of claim 25, wherein the shaft of the non cannulated dilator is ovoid in shape.

31. (New) The kit of claim 25, wherein the bore of at least one of the cannulas has circular cross-section.

32. (New) The kit of claim 25, wherein the bore of at least one of the cannulas has an ovoid cross-section.